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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

HASTINGS COLLEGE OF THE LAW, a  
public trust and institution of higher  
education duly organized under the  
laws and the Constitution of the  
State of California;

FALLON VICTORIA, an individual;  
RENE DENIS, an individual;

TENDERLOIN MERCHANTS AND  
PROPERTY ASSOCIATION, a  
business association;

RANDY HUGHES, an individual; and  
KRISTEN VILLALOBOS, an individual,

Plaintiffs,

v.

CITY AND COUNTY OF SAN  
FRANCISCO, a municipal entity,

Defendant.

Case No. 4:20-cv-03033-JST

**PLAINTIFFS' RESPONSE TO  
MOTIN TO INTERVENE**

Date: July 22, 2020

Time: 2:00 p.m.

Place: Courtroom 6, 2<sup>nd</sup> Floor

**ASSIGNED FOR ALL PURPOSES  
TO THE HONORABLE JON S.  
TIGAR**

Trial Date: (None set yet)

Plaintiffs do not support or oppose the Applicants' Motion for Intervention.

Plaintiffs note that under Federal Rule of Civil Procedure 24(a)(2), for the Motion to be granted: (1) the motion must be timely; (2) the applicant's must have a "significant protectable" interest relating to the property or transaction which is the subject of the action; (3) the applicant must be so situated that the disposition of the action may as a practical matter impair or impede its ability to protect that interest; and (4) the applicant's interest must be inadequately represented. *Retiree Support Group*, 315 F.R.D. 318, 321 (N.D. Cal. 2016) (citing *Freedom From Religion Found. v. Geithner*, 644 F.3d 836, 841 (9th Cir. 2011)).

Applicants must satisfy all four criteria: "[f]ailure to satisfy any one of the requirements is fatal to the application." *Retiree Support Group*, 315 F.R.D. at 321

1 (citing *Perry v. Proposition 8 Official Proponents*, 587 F.3d 947, 950) (9th Cir. 2009)).

2 A party who is not entitled to intervention as a matter of right may  
 3 nonetheless intervene through permissive intervention pursuant to  
 4 Fed. R. Civ. P. 24(b). Permissive intervention requires: (1) an independent ground  
 5 for jurisdiction; (2) a timely motion; and (3) a common question of law or fact between  
 6 the applicant's claim or defense and the main action. *Freedom*, 644 F.3d at 843.

7 By not supporting or opposing intervention, Plaintiffs do not waive any  
 8 objections, including, but not limited to: standing, ripeness, presence of a case or  
 9 controversy, justiciability, or political question — nor do plaintiffs waive objection or  
 10 reply to Applicants' statements of fact or law.

11 Plaintiffs agree with the City that, "[t]he terms of the Stipulated Injunction  
 12 represent a massive commitment of resources by the City, and reflect Plaintiffs' and  
 13 the City's shared goal to improve living conditions in the Tenderloin for housed and  
 14 unhoused residents alike." CCSF Response to Mot. for Intervention at 1. Plaintiffs  
 15 also agree "the Proposed Intervenors have not demonstrated any reason why the  
 16 Stipulated Injunction should not be entered by the Court. Proposed Intervenors have  
 17 not identified any provision of the Stipulated Injunction that is unlawful or that  
 18 would violate the rights of unhoused persons." *Id.* at page 2. Finally, Plaintiffs join  
 19 the City's request that the Court enter the Stipulated Injunction, regardless of how it  
 20 rules on the Motion to Intervene.

21  
 22 Respectfully submitted,

23  
 24 By: /S/ MICHAEL A. KELLY  
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 26 RICHARD H. SCHOENBERGER  
 27 MATTHEW D. DAVIS  
 28 JADE SMITH-WILLIAMS  
 Attorneys for ALL PLAINTIFFS